

BRITISH COLUMBIA LABOUR RELATIONS BOARD

IN THE MATTER OF AN APPLICATION PURSUANT TO
THE *LABOUR RELATIONS CODE*, R.S.B.C. 1996, c.244

BETWEEN:

BRITISH COLUMBIA PUBLIC SCHOOL EMPLOYERS' ASSOCIATION ON
BEHALF OF ITS MEMBERS BEING ALL BOARDS OF EDUCATION AS
DEFINED IN THE *SCHOOL ACT*, R.S.B.C. 1996, C. 412, THE BOARD OF
EDUCATION OF SCHOOL DISTRICT NO. 36 (SURREY), AND THE
BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 52 (PRINCE
RUPERT)

("BCPSEA")

AND:

BRITISH COLUMBIA TEACHERS' FEDERATION

("BCTF")

BEFORE THE LABOUR
RELATIONS BOARD

MICHAEL FLEMING, ASSOCIATE
CHAIR, ADJUDICATION

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FRIDAY, THE 20TH DAY
OF APRIL, 2012

ORDER

WHEREAS the Labour Relations Board (the "Board") has received an application from BCPSEA pursuant to Sections 133, 134, 137(4), 139 and Part 5 of the *Labour Relations Code* (the "Code") alleging that BCTF has breached Sections 48, 49, 57, 58, 59 and 60 of the Code and has also breached Section 3 of the *Education Improvement Act* (the "Act");

AND WHEREAS the undersigned was established as a Panel of the Board pursuant to Section 117 of the Code to deal with this matter;

AND WHEREAS the Board has read the application of BCPSEA and all other relevant material on the file;

AND WHEREAS the Board is satisfied that notice was adequately effected on the BCTF;

AND WHEREAS the Board convened a hearing on April 16, 2012 at which time the parties appeared represented by counsel;

AND WHEREAS the parties were afforded an opportunity to make submissions;

AND WHEREAS the Board is satisfied that under all the circumstances an Order should be provided;

AND WHEREAS the Board is satisfied that School Districts have discretion to design student progress reports ("Student Reports"), subject to compliance with the Student Progress Report Order;

AND WHEREAS the Board is satisfied that the workload of teachers represented by the BCTF will not be unduly impacted by the terms set out below;

NOW THEREFORE, PURSUANT TO SECTIONS 133(5), 134 AND 143 OF THE CODE, THE LABOUR RELATIONS BOARD MAKES THE FOLLOWING DECLARATIONS AND ORDERS:

1. The BCTF and its locals will immediately rescind previous advice to BCTF members to the effect that BCTF members should not, after the strike has ended,

perform work related to and including submitting marks and preparing Student Reports that may have been previously withdrawn during the lawful BCTF strike;

2. BCTF and its local in Surrey will immediately advise BCTF members employed as secondary teachers in Surrey Connect (the "Surrey Connect Teachers") to mark/respond to all student work including work submitted March 5-7, 2012;
3. The Surrey Connect Teachers will mark/respond to all student work submitted March 5-7, 2012 as a priority to be completed as soon as possible, and in any event, no later than the end of the day Wednesday, April 25, 2012;
4. Surrey School District and the Surrey BCTF local union will establish a joint committee, facilitated if appropriate, for the purposes of addressing any workload issues that may arise as a result of the Surrey Connect Teachers' compliance with paragraph 3 above. If the joint committee is unable to resolve any workload issues that may arise, an application can be made to me to provide an expeditious resolution;
5. BCTF and its locals will immediately advise BCTF members to submit marks and prepare Student Reports. Given the unusual circumstances arising, the following will apply to the performance of those duties and contents of the Student Report, subject to any alternate instructions issued by a School District;
 - (i) School Districts will allow teachers until April 27, 2012 to complete these tasks;
 - (ii) Teachers will not be required to provide written reports in addition to the reports referenced below;
 - (iii) The reporting format set out below will apply only for the specified time period; i.e., from the date of this Order to the end of this school year, to reflect the unique circumstances arising;
 - (iv) Marks
 - a) For courses/classes/subject areas that are complete, BCTF members will enter/submit final marks in the usual manner;
 - b) For courses/classes/subject areas that are ongoing, BCTF members will enter/submit all marks in the usual manner. Marks or letter grades to date,

including the period from the beginning of this school year up to March 17, 2012, will be entered/submitted in the usual manner;

(v) Reports (including adult education, distributed learning and learning centres)

a) Grades 4-12

- Student Reports will be issued by no later than the end of April 2012 with marks as above and with attendance and work habits;
- Teachers will provide comments if there has been a significant change in student progress since the last term;
- Teachers are not restricted from providing comments that are seen by the teacher to be useful or necessary to advance the learning outcomes of students;
- Student Reports will be completed by teachers and forwarded to administrators in the usual manner by April 27, 2012;
- Year-end Reports will be issued in the end of June, as usual;

b) Grades K-3

- Student Reports will be in an abridged form containing information describing student progress/achievement in relation to learning outcomes, limited comments and/or performance scales with respect to the six curricular areas. School Districts may, as an alternative, develop a checklist to indicate student progress;
- Student Reports will be completed by teachers and forwarded to administrators in the usual manner by April 27, 2012;
- Year-end Reports will be issued at the end of June, as usual;

6. Duties related to the completion of the marking and Student Reports by BCTF members set out above, will be done in compliance with the "work now, grieve later" principle;
7. I remain seized to deal with any disputes arising in respect to this Order. I will deal with any such dispute by way of an expedited process to be determined by me. In

that regard, the parties have provided full submissions relating to the matters in issue between them giving rise to this application. I may rely on those submissions or request further submissions from the parties as I deem appropriate.

DATED AND EFFECTIVE at Vancouver, British Columbia, this 20th day of April, 2012.

LABOUR RELATIONS BOARD

"MICHAEL FLEMING"

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ASSOCIATE CHAIR, ADJUDICATION